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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NEXTDOOR.COM, INC., a Delaware
corporation,

Plaintiff,

vs.

RAJ ABHYANKER, an individual,

Defendant.

RAJ ABHYANKER, an individual

Counterclaimant,

vs.

NEXTDOOR.COM, INC., a Delaware
corporation; PRAKASH
JANAKIRAMAN, an individual;
BENCHMARK CAPITAL PARTNERS,
L.P., a Delaware limited partnership;
BENCHMARK CAPITAL
MANAGEMENT CO. LLC, a Delaware
limited liability company; SANDEEP
SOOD, an individual; MONSOON
ENTERPRISES, INC., a California
corporation, and DOES 1–50, inclusive;

Counterdefendants.

Case No. 3:12-cv-05667-EMC

**MOTION TO WITHDRAW AS COUNSEL
BY BRUNO TARABICHI, HEATHER
NORTON, SCOTT ALLEN, ROY
MONTGOMERY AND BRIAN ORION
AND REQUEST FOR *EX PARTE*, IN
CAMERA HEARING**

Date: July 17, 2014
Time: 1:30 p.m.
Courtroom: 5 – 17th Floor
Judge: Honorable Edward M. Chen

I. INTRODUCTION

Bruno Tarabichi, Heather Norton, Scott Allen, Roy Montgomery and Brian Orion respectfully request permission to withdraw as counsel of record for Defendant Raj Abhyanker. In this regard, counsel have analyzed their ethical obligations under the California Rules of Professional Conduct and believe they are required to seek withdrawal.

In order to avoid prejudicing Mr. Abhyanker or breaching any confidentiality obligations, counsel respectfully request that they be allowed to proffer their reasons in support of withdrawal in an *ex parte*, in camera hearing (whether before presiding Judge Chen or another assigned Judge who will not be the trial judge). This is in accordance with best practices recommended by the California State Bar's publications and appears to be a practice that has been employed by federal courts in similar situations.

Finally, counsel will also be filing a motion requesting that the *ex parte*, in camera hearing be held on an expedited or shortened schedule.

II. RELEVANT FACTS

On April 23, 2014, discovery on Mr. Abhyanker's trade secret misappropriation counterclaim opened. ECF No. 182. The last month and a half of trade secret discovery has revealed and led to developments that now require counsel to seek withdrawal. Counsel can provide the specifics of these developments during the *ex parte*, in camera hearing on this Motion. *See* Declarations of Bruno Tarabichi, Heather Norton, Scott Allen, Roy Montgomery and Brian Orion filed concurrently herewith.

Counsel have given Mr. Abhyanker notice of their intent to seek withdrawal by way of this Motion. Tarabichi Decl., ¶ 5; Norton Decl., ¶ 5; Allen Decl., ¶ 5; Montgomery Decl. ¶ 5; Orion Decl., ¶ 5.

III. ANALYSIS

A. The Rules of Professional Conduct Require Withdrawal

Rule 3-700 of the California Rules of Professional Conduct set forth the circumstances under which an attorney must seek mandatory withdrawal or is allowed to seek permissive withdrawal. Counsel's review Rule 3-700 of the California Rules of Professional Conduct

indicates that they are ethically required to seek to withdraw in the instant case. Tarabichi Decl., ¶ 4; Norton Decl., ¶ 4; Allen Decl., ¶ 4; Montgomery Decl. ¶4; Orion Decl., ¶ 4. Counsel request permission to proffer the reasons supporting the request to withdraw confidentially in an *ex parte*, in camera hearing so as to not prejudice the client. *Id.*

B. An Ex Parte, In Camera Hearing Is Requested

The recommended best practices for withdrawing in the instant situation requires counsel to request that the court hear the motion to withdraw *ex parte*, in camera. This is the recommended practice by official publications of the California State Bar, such as the California Bar Journal, as well as relevant judicial decisions. It appears that sometimes the presiding Judge will order another judge to conduct the in camera review to avoid prejudice or bias moving forward. *See, e.g.*, Diane Karpman, How to Safely Withdraw From a Case, California Bar Journal (May 2010); *United States v. D'Armond*, 65 F. Supp. 2d 1189, 1193 (D. Kan. 1999) (hearing counsel's proffer in support of motion to withdraw *ex parte*, in camera). Tarabichi Decl., ¶¶ 2-3; Norton Decl., ¶¶ 2-3; Allen Decl., ¶¶ 2-3; Montgomery Decl., ¶¶ 2-3; Orion Decl., ¶¶ 2-3.

IV. CONCLUSION

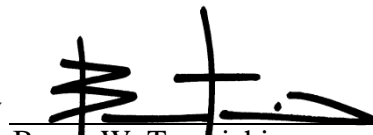
For all the foregoing reasons, Bruno Tarabichi, Heather Norton, Scott Allen, Roy Montgomery and Brian Orion respectfully request that the Court grant their request for an *ex parte*, in camera hearing, as well as their request to withdraw as counsel for Raj Abhyanker in this case.

Dated: June 11, 2014

Respectfully submitted,

LEGALFORCE RAJ ABHYANKER, P.C.

By



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Heather R. Norton

Scott J. Allen

Brian Orion

Attorneys for Defendant Raj Abhyanker